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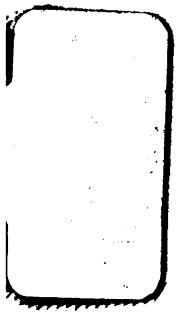

12/15/1910

Jared Sparks

AND

Alexis de Tocqueville

SERIES XVI NO. 12

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE
HERBERT B. ADAMS, Editor

History is past Politics and Politics are present History.—*Freeman*

Jared Sparks

AND

Alexis de Tocqueville

BY

HERBERT B. ADAMS

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Jared Sparks and Alexis de Tocqueville.*

I.

INTRODUCTORY CORRESPONDENCE.

Jared Sparks made the acquaintance of Alexis de Tocqueville in the year 1828, during a visit to Paris for the discovery of materials for American history in the French archives. Three years later Tocqueville came over to America for the purpose of studying the democratic institutions of this country. France had entered upon a more popular form of constitutional government under Louis Philippe, the citizen king, and Tocqueville was eager to collect historical evidence from the United States to justify the attempt of a great people to govern itself. Democracy in America was reviewed by him for the political encouragement and practical instruction of the French people. With this patriotic intent Tocqueville set out to discover the fundamental institutions of American self-government. He went to Boston and made inquiries regarding the organization of New England towns. Just as Edward Augustus

*The recent publication by The Century Company of a new edition of Tocqueville's "Democracy in America," with a biographical introduction by President D. C. Gilman, revived the idea of printing, in the Johns Hopkins University Studies, the present series of letters, illustrating the relations of Alexis de Tocqueville with Jared Sparks. Permission to make special use of these materials was kindly accorded five years ago by representatives of the Sparks family. Indeed, at the time (1893) when the work, entitled "The Life and Writings of Jared Sparks," was published by Houghton & Mifflin, the editor contemplated the issue of this monograph in connection with the studies because of Mr. Sparks' "Observations on the Government of Towns in Massachusetts," one of the original sources of Tocqueville's information. The publication of this paper, long ago announced, has been hitherto delayed by press of other matters.

Freeman, Maxime Kovalevsky, James Bryce and others interested themselves in the local life of our American commonwealths, so Alexis de Tocqueville went to the very sources of American democracy. It is not generally known that some of the most authentic information which Tocqueville obtained upon the subject of town government in New England came from that pioneer of American institutional history, Jared Sparks.

In Mr. Sparks' journal for January 20, 1832, appears the following account of the original objects of the government mission of Tocqueville and Beaumont to America and of Mr. Sparks' relation to one of the two main lines of their inquiry. "Two French gentlemen, Messrs. Beaumont and Tocqueville, were here three months ago, employed in examining the system of prisons, and other local institutions. They were sent out for this purpose by the French government. They have been very desirous to get some ideas of the municipal, or town governments in New England. No books treat of this matter, and if they did, they could hardly be understood by a foreigner wholly unacquainted with the habits of the people. At their solicitation I agreed to write an account of the system, as far as it could be made intelligible, and suited to persons but little informed on the subject. The principles are important in regard to any changes that may be contemplated in the municipal establishments of France. I have performed my promise, and written a memoir, entitled 'Observations on the Town Governments of Massachusetts.' I have hinted at the origin of the towns, the progress of their habits of governing themselves, and drawn out in as plain a form as possible the system as it now exists in practice. It has been a task of much labor, for there are few things more difficult than to write intelligibly on a subject which seems to the writer to be familiar to all, and about which nobody makes inquiries, because the whole subject is treasured up among his first ideas, and is preserved fresh by every day's habit. In such a case it is difficult to discriminate between what a foreigner

would at once comprehend, and what would be obscure and beyond the compass of his knowledge. I have done as well as I could, and written a plain statement of principles, laws, and customs upon which the town governments are founded, and their mode of operation."

A letter from Tocqueville to Sparks was written on that journey westward which President Gilman has so graphically described in his introduction to the Century edition of "Democracy in America," Vol. I, xii: "After crossing the Alleghanies, at the beginning of a severe winter, they proceeded by way of Wheeling to Cincinnati. The river was full of ice. The steamer came into great perils. A landing was made at Westport, Kentucky, and the travelers, finding no equipage, walked to Louisville, whence they took a stage for Nashville."

TOCQUEVILLE TO SPARKS.

CINCINNATI, December 2, 1831.

Vous avez bien voulu, Monsieur, me promettre de m'écrire à Washington pour me donner sur le Massachusetts les renseignemens que mon court séjour à Boston ne m'a pas permis de recueillir par moi-même et qui, me venant de vous, me seront doublement précieux. J'ai pensé bien des fois depuis, qu'en vous faisant cette demande j'avais grandement abusé de l'amitié que vous nous avez témoignée; mais en même tems j'ai songé que vous me pardonneriez sans doute en considération du motif qui me fait agir et qui, comme vous le savez, n'est point seulement une vaine curiosité. C'est cette dernière raison qui m'encourage à vous écrire aujourd'hui pour vous prier d'ajouter au service que vous voulez bien me rendre, celui de m'écrire à une époque plus rapprochée que celle dont nous étions convenus. Vous savez que notre intention était de quitter l'Amérique dans le courant d'avril prochain; diverses circonstances, qu'il serait trop long d'expliquer ici, nous forcent de partir dans les premiers jours de février. Si donc vous avez tou-

jours l'intention de m'écrire, je vous prierais instamment de le faire avant la fin de janvier 1832.

Plus je m'éloigne du Massachusetts, Monsieur, plus je sens vivement le regret de n'y avoir pas fait un plus long séjour. Nulle part, dans les portions de l'union que j'ai déjà parcourues depuis mon départ de Boston, je n'ai trouvé des institutions communales qui me parussent approcher de celles qui sont en vigueur dans la Nouvelle Angleterre. C'est là une vérité dont je suis pas encore peut-être juge très compétant, mais que proclament unanimement les hommes éclairés des états que je viens de visiter. Il eût donc été d'une immense importance pour moi d'étudier sur les lieux les principes, les formes et les moyens d'action de ce gouvernement local dont, depuis si long tems en France, nous sentons le besoin et cherchons le modèle. Rien de plus difficile que de comprendre le jeu d'une pareille machine en la voyant décrite dans les livres, surtout dans des livres qui ne renferment point d'idées générales et n'adoptent point un ordre méthodique. Le seul ouvrage dans lequel j'ai pu puiser jusqu'à présent quelques lumières sur la marche pratique de votre système communal, est intitulé *Town-officer*. Il m'avait été indiqué par M. Quincy, le President de l'université de Cambridge: c'est un livre dont le mérite littéraire et philosophique est nul, et dont l'utilité toute pratique suppose même toujours dans le lecteur la connaissance des coutumes et des lois. Je crains donc de m'être souvent égaré en le lisant.

La première chose qui m'a frappé à l'examen de cet ouvrage, c'est le grand nombre de fonctionnaires différens qui compose votre Magistrature municipale. Ainsi, indépendamment des principaux officiers, l'ouvrage, dont je parle, s'occupe de divers fonctionnaires publics auxquels il donne les noms de fence-viewers, field-Driver, fire-ward, hog-Reeve, measurer of wood, parish-officers, sealer of Weights and Measures, Surveyor of highways, Surveyor of Lumber, town clerk, tythingmen . . . . ces officiers existent-ils en fait ou seulement dans la loi? Existent-ils partout, ou

seulement dans les grandes townships? Voilà ce que je ne puis deviner.

Si ces officiers sont en effet nominés chaque année, remplissent-ils exactement les fonctions que leur attribue l'auteur du *Town-officer?* C'est encore là un point que j'ignore. Je sais seulement que chez tous les peuples il y a une grande différence entre la lettre de la loi et son exécution. Je vois à l'article *Selectman*, que les Selectmen, lorsqu'ils s'apperçoivent qu'un ou plusieurs habitans de la commune ruinent leur santé ou leur fortune ou perdent habituellement leur tems à boire, font afficher le nom de ces individus dans les cabarets, et les cabaretiers ne peuvent plus leur fournir de vin ni de liqueurs fortes. Les Selectmen doivent aussi dénoncer aux juges de Probate ceux dont l'inconduite est de nature à amener une interdiction. Les Selectmen ont-ils en effet ces droits, et surtout en usent-ils?

Autre exemple: le constable et les tythingmen doivent veiller à l'observation du Dimanche; ils doivent poursuivre les *Blasphémateurs* et les joueurs; ils doivent arrêter les voyageurs le Dimanche; s'enquérir des motifs qui les forcent à voyager ce jour-là, et les empêcher de continuer leur route si ces motifs ne leur paraissent pas suffisans—de pareilles lois ne sont-elles pas tombées en désuétude?

Il y a un article en particulier auquel j'avoue que je ne puis rien comprendre: c'est celui intitulé *Parish and Parish officers*. Il semble en effet en résulter que chaque town est obligé d'entretenir un *Ministre protestant*; faute de quoi, elle est condamnée à l'amende par la cour de common pleas du Comté. Ceci me paraît établir jusqu'à un certain point une *Religion d'état* et faire de la politique et de la Religion un mélange qu'on semble avoir pris à tâche d'éviter en Amérique.

Un peu plus loin, je lis que parmi les habitans d'une commune chacun est libre d'abandonner *a Parish*, mais sous la condition d'en joindre une autre; d'où je conclus que la loi oblige d'avoir une Religion, bien qu'elle ne se prononce point entre les diverses communions Protestantes.

Je croyais jusqu'ici que parmi vous, chaque congrégation avait le droit exclusif de choisir et de renvoyer son pasteur; mais j'apperçois, en lisant le *Town-officer*, que la Congrégation religieuse, qui est désignée sous le nom de Parish, ne peut congédier le Pasteur que dans certains cas prévus et suivant certaines formes. Ce qui semble faire du Ministre un sorte d'officier civil. Il y a évidemment sur ces différens points quelques principes généraux que j'ignore et qui me donneraient la clé de tout le restre.

En géneral, je commence à connaître à peu près votre organisation municipale dans ce qu'elle a de *matériel*. Je vois la lettre de la loi, mais son esprit m'échappe; le Droit m'est connu, le fait me manque. Il me semble que, théoriquement parlant, vous n'avez pas suivi, pour les *communes ordinaires* (not incorporated towns) le système du gouvernement représentatif établi partout ailleurs. Vos communes me paraissent se gouverner elles-mêmes dans le sens naturel du mot, comme les communes de l'antiquité. La Direction des affaires communales n'est point confiée à un corps d'administrateurs élus annuellement; elle appartient directement au peuple que les Selectmen doivent consulter pour toutes les mesures importantes, et de la volenté duquel ils sont purement et simplement les exécuteurs.

Voilà, je crois, les principes du Droit. Me trompois-je? Comment le met-on en pratique et quels en sont les effets? C'est ce qui n'est pas moins important de savoir et ce qu'aucun livre ne saurait m'apprendre. En fait, la Commune toute entière est-elle souvent consultée? Quel peut être le caractère de ces assemblées? Comment peut-on y traiter des affaires délicates et y suivre un système quelconque d'administration? Ne forment-elles point des foyers d'intrigues et ne sont-elles pas portées, comme toutes les grandes assemblées populaires, à se laisser entraîner bien plus par des passions que par des argumens?

Vous voyez, Monsieur, que je suis incorrigible; je commence ma lettre par m'excuser de vous avoir fait des questions et finis en vous en faisant de nouvelles. Je voudrais

bien, Monsieur, que pour m'absoudre, vous voulussiez bien, de votre côté, nous mettre à même de vous être de quelque utilité à notre retour en Europe. Ce serait, je vous jure, nous rendre un véritable service que de nous fournir l'occasion de vous être agréable et de reconnaitre en même tems les bons procédés de vos compatriotes à notre égard en vous facilitant la terminaison du bel ouvrage que vous avez entrepris.

Veuillez, Monsieur, recevoir, tant en mon nom qu'en celui de M. Beaumont l'assurance de notre considération la plus distinguée.

P. S.—Mr. Hale, l'éditeur d'un des principaux journaux de Boston, a bien voulu nous promettre quelques documens sur l'état de la presse périodique en Amérique. Si vous aviez l'occasion de le voir, seriez vous assez bon pour l'avertir du changement de nos projets et le prier de nous écrire avant le 1 février prochain?

SPARKS TO TOCQUEVILLE.

"BOSTON, January 11, 1832.

"I should sooner have replied to your letter of the 2d of December, dated at Cincinnati, had I supposed you would have returned to Washington. I have not forgotten my promise to write the paper you desired, on the modes of municipal government in Massachusetts, and I will endeavor to answer the queries contained in your letter, as well as those which you left in writing before your departure from Boston. It is not easy to make the subject fully intelligible to a person unacquainted with the long practices and habits of the people, but I may perhaps be able to give hints which will remove some of your difficulties.

"As soon as you get this letter, please to inform me at what time you will sail from New York, and to whose address in that city I shall send the paper. Should you not sail before the 10th of February I shall probably see you in New York.

"Let me observe to you, that Mr. Niles, the American Secretary of Legation in Paris, is a native of New England and has lived many years in this country, and will doubtless be able to explain many things to you respecting the details of managing our town affairs.

"I am happy to inform you, that since your departure I have received letters from Paris, telling me that the government have permitted the papers to be examined, concerning which I conversed with you, and that a person is now employed in that work.

"In a few days I shall publish the Life of Gouverneur Morris, formerly American Minister in France. It contains some curious matters about the French Revolution. He was in Paris from 1789 to 1794. When the work is published I shall beg the favor of you to accept a copy."

Tocqueville's next letter to Sparks was written from Washington. From Nashville he had gone to Memphis, thence by steamboat to New Orleans. From Louisiana the French travelers went to Montgomery, thence to Norfolk and Washington.

TOCQUEVILLE TO SPARKS.

WASHINGTON, January 20, 1832.

J'ai trouvé avant hier en arrivant ici, Monsieur, l'aimable lettre que vous avez bien voulu m'écrire en date de 11 de ce mois. Je me hâte de vous informer, suivant le désir que vous m'en témoignez, que vous pouvez adresser les papiers que vous me destinez, à New York, care of Messrs. Prince, Ward, King & Co., chez qui nous nous empresserons de les aller prendre. J'espère que vous serez mieux encore, Monsieur; et que vos affaires vous amèneront à New York avant notre départ de cette ville; notre intention étant de ne nous embarquer que dans le paquebot du 10 février prochain. Ce sera avec un bien vif plaisir, je vous assure, que je renouverai avec vous les rapports agréables que nous avons eu a Boston.

Votre lettre m'apprend qu'enfin le gouvernement français vous accorde la permission que vous sollicitiez; je m'en suis réjoui pour vous et aussi pour lui. Les obstacles qu'on vous opposait étaient misérables. Quant au reste, Monsieur, je suis presque tenté de voir avec regret une mesure qui me prive de l'espérance de vous être utile. Si par hazard cependant il se présentait encore en France quelque occasion de vous servir, veuillez, je vous prie, compter sur tous mes efforts.

Je ne veux point terminer, Monsieur, sans vous remercier d'avance du présent que vous comptez me faire. La vie de Gouverneur Morris est un ouvrage doublement précieux pour moi; il traite en quelque sorte de la France comme de l'Amérique et de plus il est écrit par vous.

Nous ne savons encore où nous descendrons à New York; mais si vous voulez faire savoir votre adresse à Mr. Prince, nous nous hâterons de vous aller chercher. M. de Beaumont me charge de le rappeler particulièrement à votre souvenir. Agréez, pour moi, Monsieur, l' assurance de ma considération la plus distinguée.

Sparks to Tocqueville.

Just before Tocqueville sailed for Europe Sparks wrote him the following letter from

"Boston, February 2, 1832.

"In the enclosed memoir I have endeavored to give a general and condensed view of the system of town government in Massachusetts, embracing at the same time the answers to your queries. I have avoided going into details, because these are suggested by the 'Town Officer.' Such of your queries as did not seem to be fully answered in the memoir, I have considered separately at the end.

"The Town Officer, you will remember, is only a selection from such parts of the laws of the State as pertain to towns, and presupposes in the reader a knowledge of the usages of the people. It is designed to point out the duties of town officers.

"You inquire whether all the officers there mentioned are in fact chosen and perform the duties prescribed. I believe they are all invariably chosen and their duties are for the most part discharged with a good deal of exactness in obedience to the laws. It is rare, however, that the tythingmen stop people who travel on the Sabbath, but this is still sometimes done. The duty of the Selectmen to apprehend profane and immoral persons, to post up the names of drunkards, tipplers, gamblers, and the like, is exercised in flagrant cases. In the discharge of all such duties much depends, of course, on the judgment and discretion of the officers.

"Should other queries arise in your mind after reading the memoir, I shall be very happy to answer them, and I trust you will at all times write to me freely on this or any other subject. My pursuits, researches, and observations make me well acquainted with the political and municipal institutions of the United States, and it will always give me pleasure to communicate to you any intelligence that may be in my power."

Of historic interest to students of American local institutions will be the "Observations on the Government of Towns in Massachusetts," by Jared Sparks. These observations have a double value for Americans: first, as recording the actual characteristics of New England town government at the time Tocqueville wrote about it, and, second, as affording a means of comparison with Tocqueville's chapter v, Vol. I, in "Democracy in America."

Mr. James Bryce prepared the way for his now famous work on our "American Commonwealth," by a critique of Tocqueville's "Democracy in America,"[1] at a meeting of the

[1]One of the fruits of Mr. Bryce's American studies and a pleasant souvenir of that evening with the Hopkins Historical Seminary was his paper on "The Predictions of Hamilton and De Tocqueville," published in the University Studies in September, 1887, Vol. V. No. 9. Bryce's "American Commonwealth" was published in the fall of 1888. In the Fortnightly Review for October, 1882, through Mr.

Historical Seminary in the Johns Hopkins University. In this critique he was aided by the evidence given from various parts of the country by some of our graduate students, for example, Albert Shaw, now editor of The Review of Reviews, then a graduate student in Baltimore.

II.

OBSERVATIONS BY JARED SPARKS ON THE GOVERNMENT OF TOWNS IN MASSACHUSETTS.

In considering this subject, it is necessary to keep in mind the mode in which the country was originally settled. The first establishment was at Plymouth, and consisted of only one hundred and one persons, surrounded by a vast wilderness, uninhabited except by a few savages. As far as the rights and forms of government were concerned, the new settlers, when they landed, were in a state of nature. For mutual convenience and security they agreed on a system of social and political regulations, which had the effect of laws. This was the simplest form of a republic. Each person had a voice in the several councils, and all rules and decisions were established by a majority of voices. As circumstances required it they adopted new regulations, or laws, but always upon the same principles, that is, the equal rights of each individual, and the power of a majority to control the whole. The people chose a governor, and other suitable officers for administering the government, to whom limited powers were granted and whose duties were prescribed by the people themselves.

Within a few years other settlements were established by new emigrants from England, and being remote from the original settlement at Plymouth, and from each other, they

Bryce's mediation, was published Albert Shaw's "Local Government in America," republished in the University Studies, Vol. I, No. 3, January, 1883, as "Local Government in Illinois." See original abstract in University Circular, May, 1882. See also N. Y. Times, Dec. 10, 1898, Albert Shaw on "De Tocqueville."

adopted similar modes of government, acting, for all essential purposes, as independent republics, after the model and under the general guidance of the earliest establishment. In this way they soon acquired the knowledge and habits of local government, and from these habits, thus early rooted, and never abandoned, has been derived the present municipal system of New England.

As the settlements increased in numbers it was convenient for them to unite under some general form of government, in order to protect themselves against the Indians, and for other advantages common to all parties. There commenced the system of representation in proportion to the numbers of the people, and by a free suffrage in elections, which is in fact the basis and the continuing support of all the political institutions. When the settlements, or towns as we may now call them, first agreed to this union, they had individually, in their own hands, the power which pertains to a social or political compact. Thence it is obvious that they would give up no more than was essential to the general interests without divesting themselves of their primitive rights or deranging their local forms of government already established. There again is another principle of the American institutions, which is, that a superior government exercises such powers only as are delegated to it by an inferior, or, in other words, by the people.

This united government formed by representatives from the settlements, was called the General Court, and it has retained the name ever since. Before the Revolution this was subject to various modifications by charters from England in which the king assumed more power than the people approved, leaving them little else than the appointment of representatives to one branch of the Legislature; but this never affected the municipal organization already described, and within the limits of a town, the people were always a body politic, acting, under certain restrictions, as an independent republic, in the regulation and control of their local affairs.

These preliminary remarks will prepare us for examining the system as it is now in operation.

Towns.

At first a town was an indefinite number of people living near each other, and associating for purposes of mutual benefit, without regard to the extent of land, or territory which they occupied. But after a general government was instituted, under a charter from the king of England, the towns possessed the power of incorporate bodies, and each town was usually defined by specified bounds; so that a town, or, as it was sometimes called, a township, embraced all the inhabitants residing within those bounds. Upon an average these townships are about six miles square, but varying as local circumstances and other causes required when they were formed. Hence the corporate powers of a town extend to a territorial jurisdiction, without reference to the number of people dwelling within the prescribed limits. These corporate powers are confirmed by acts of the Legislature, and exist in the nature of legal rights, founded on usage and early habits. Such are the elements of the present system of town governments.

By the laws of the State certain duties are required of the towns in their corporate capacity, and certain privileges allowed. They are required to hold elections for the choice of a governor, lieutenant-governor, Senators, Representatives to the Legislature, and such town officers as are designated in the laws. They are required to assess and collect taxes to keep the public roads in repair, to support religious worship and schools, and in general to execute all the laws which pertain exclusively to towns. Again they are allowed to make by-laws or regulations which do not contravene the laws of the State, to employ such clergymen, and in such numbers as they may think proper, to establish as many schools, and appoint such teachers as they choose, to lay out roads in any part of the town, and to suspend for one year

the operation of particular laws of the State which relate solely to some of the internal affairs of the town.

These requisitions and privileges are common to all the towns in the State, or, in other words, the laws of the State are uniform and apply equally in their full extent to every town.

There are a few unincorporated towns in the State, perhaps half a dozen, which have fewer privileges than the others, but when the number of rateable polls, or voters, amount to one hundred and fifty, they may become incorporated.

Town Meetings.

The towns are required to hold town meetings at certain times, for the choice of State and town officers. They may also assemble in town meeting at any other time, for transacting the affairs of the town. In these meetings the legal voters only can act, and the will of the majority of those present is binding on the whole town. But in such case due notice of the meeting must have been given according to law. The principle is, that the majority rules in all town meetings, but that each voter shall know beforehand the time of the meeting, and the object for which it is to be convened. In the town meetings there is freedom of debate, and the voters present have a right to express their opinions fully on the subjects brought before the meeting.

Selectmen.

The selectmen are the principal officers of a town and are chosen annually. They can never be less than three in number, nor more than nine. They are assisted by a town clerk, who acts as secretary and performs other duties. The selectmen preside at the town meetings for the election of governor, lieutenant-governor, Senators and Representatives, but at the meetings for the town officers and transacting other town business, a moderator presides, who is chosen

at the opening of the meeting, and has no powers except to preside for that occasion. The duties of the selectmen, like those of other town officers, are defined by law. Besides presiding at elections, they can lay out roads anywhere within the town, and watch over the morals and health of the inhabitants. They are guardians of the poor, when officers for that purpose are not specially chosen; they draw out jurors for attending the courts, and appoint certain subordinate officers as auctioneers, weighers, measurers, inspectors, and some others. In general it is the business of the selectmen to see that the laws which relate to the towns are executed, to preserve order, and to carry into effect the regulations of police.

Taxes.

It is a principle that all taxes for the support of government, both in regard to the State and for executing town regulations, shall be levied on each individual in proportion to his property. A poll tax is also levied within a limited amount. But all direct taxes throughout the State are levied and collected by the towns. Once in ten years the Legislature appoints a committee, who receive returns of the quantity of lands and other kinds of property in the several towns. From these returns the committee make an estimate of the aggregate amount of property in each town, and this amount is the basis on which the tax of each town for State purposes is levied during the ten years following. Again, each town makes an annual valuation of the property of every individual within its limits, and apportions all taxes accordingly.

There are three kinds of taxes, namely, for State, county, and town purposes. The State tax is apportioned by the Legislature to each town, according to its amount of property, and the portion which falls to each town is assessed by the town itself on the individuals within the town in proportion to their property. The same rule holds in respect

to county taxes. The town taxes are those which the town itself imposes, either for the support of public worship, schools and roads, or for executing any local regulations of the town, which have been sanctioned by the vote of a majority in a town meeting. Hence, every kind of direct tax is ultimately apportioned and collected by the towns. The officers appointed for this purpose are assessors, collectors, and treasurer. They are chosen annually at a town meeting. The assessors determine the value of each person's property, and assign the amount of his tax. A list of the whole is given by them to the collectors, who collect the tax, and pay it over to the treasurers, that is, they pay the amount of the State tax to the treasurer of the State, the county tax to the treasurer of the county, and the town tax to the treasurer of the town. These treasurers pay out the money thus collected to persons authorized by law to receive it, and who appropriate it to its destined use in defraying the expenditures, voted either by the Legislature of the State, or by the town meetings. It will be seen by this process that the people literally tax themselves either by their representatives in the Legislature or by their own votes in town meetings, and determine in what way the money shall be expended. All taxes are assessed and collected by officers residing among the people, and chosen by them, and who are acquainted with the persons and property of each individual.

Schools.

The school system in Massachusetts dates its origin at the first settlement of the towns. It has been the theory and the practice from the beginning, that every child in the community should be taught reading and the other useful branches of education. It may safely be added that this has been the foundation from which all our republican institutions have arisen and upon which they now stand. Freedom in civilized society cannot exist without intelligence. So thoroughly have the people been convinced of this prin-

ciple, and so rigidly have they adhered to it, that the laws have not only provided for schools but made it compulsory upon parents or guardians to send their children to these schools till they shall be suitably instructed. In cases of neglect on the part of parents, either through poverty or carelessness, it is the duty of the selectmen to take charge of the children and see that they are properly educated.

Every town in which there are fifty families is required by law to maintain a school at least six months in the year. Where the towns are larger, the schools are to be multiplied in proportion to the number of families. As these laws originated in the disposition and habits of the people, there has never been any reluctance in carrying them into execution. On the contrary, there are very few towns in the State, perhaps none, in which the number of schools and the provisions for instruction are not greater than the law exacts. In the principal towns there are schools of a higher order, and academies, also private schools which are supported at the voluntary charge of individuals.

School Districts.

The size and population of the towns make it necessary that more than one school should be established in each. To effect this a town has the power by a vote in town meeting to divide itself into districts, in each of which a school is established. These districts vary in number from five to twelve, or perhaps more or less, according to the extent of the town. In this way a school is brought within a convenient distance of every family.

School Committees.

To superintend the affairs of the schools a committee is annually chosen at a town meeting. It is the business of this committee to examine and ascertain the literary and moral qualifications of the instructors, to visit the schools at certain times, to decide on the kind of books to be used,

and see that the schools are provided with them, and also to report annually to the Legislature of the State the amount of money paid for schools, the number of districts in each town, the number of pupils, and the length of time which the schools have been kept. The districts have power to choose a person from among themselves, called a prudential committeeman, who takes care that the schoolhouse is kept in repair, that fuel is provided, and whatever else is necessary for the immediate convenience and comfort of the teacher and pupils. The districts may also select their own teachers, but they must be approved by the school committee of the town.

The school tax is assessed on the whole town, like any other tax, and is paid out to the districts in proportion to the population in each, or to the number of pupils, as the town may agree. If any district wishes the school to be kept for a longer time than is provided for by their portion of the town tax, they may tax themselves for that purpose to any extent they choose, but in this case the school is in the nature of a private school, and not under the control of the town, nor are any persons required to pay but such as send their children or voluntarily agree to contribute their share. It is not uncommon for schools to be continued, at the voluntary charge of a district, beyond the time provided for by the town. The school committees have in no case anything to do with the private schools. They act only in those instances where money is paid from the general tax.

In nearly all the towns the schools are kept for a longer time than is required by law. In the larger towns some of the schools are continued through the year, but for the most part they are kept for about three months in winter by a male teacher, and three or four months in summer by a female teacher. The school committee visit all the schools in the town twice in the winter and twice in the summer.

Religion.

The Constitution and laws of Massachusetts require that public worship, after some form of the Protestant religion, shall be supported in each town. This provision, like many others, had its origin in the first settlement of the country. The emigrants were dissenters from the Church of England who, from the strictness and peculiarity of their faith, were called Puritans. Their social and political organizations partook of their ecclesiastical spirit, and the affairs of state and of religion became mingled in a manner not very consistent with republican freedom or a wise administration of government. The defects of this system, however, have been gradually wearing away. Salutary changes have been introduced from time to time, and it may be expected that the intelligence and good sense of the people will soon effect a total separation between all matters of religion and politics. In fact, as things now stand, there is very little hardship upon any one in conforming to the laws, but the principle of compulsion in religious concerns is radically wrong, an encroachment upon conscience and an unjust assumption of power. It is one of those cases in which early prejudices, habit, and accidental causes, may pervert the sense of a majority and operate against the equal rights of the whole. It will be corrected by time and experience.

Parishes.

When the first towns were settled the inhabitants were all of the same religious faith, that is, dissenters from the English Church, and calling themselves, from that circumstance, "Independents." Hence it was natural and easy for them to unite in supporting the same form of worship. All the people in the town could attend at one meeting-house and listen to the preaching of one clergyman. It was convenient, therefore, to regulate their parish and town affairs in the same manner, and to vote money and assess taxes upon

the same principle for each. Church and state were thus united in a single settlement, or town. As the towns increased in number a political union was formed, and the General Court, or Legislature, was established, laws were passed for supporting the local institutions as they then existed, applicable equally to each town, and to such towns as should afterwards be settled or incorporated. These laws accorded with the voice of the people; they were sanctioned by custom, and under various modifications they have continued till the present day. In some of the towns of larger extent, as the inhabitants multiplied, it was found necessary to have more than one place of worship. For this purpose the towns were, in some instances, divided into territorial districts, and each district was a parish, empowered to act for itself in whatever pertained to the support of religion, such as employing a clergyman, building a meeting-house, and the like, but in every other respect the inhabitants of such district or parish were an integral part of the town, partaking the privileges and subject to the control of the town meetings.

Religious Societies.

The parishes above described have a territorial extent, that is, they either embrace a whole town or a definite portion, which has been set off by fixed boundaries. But there is another kind of parishes, more commonly called religious societies, or congregations, which are constituted upon a different principle. In the compact and populous towns, the people would of course have a preference for a clergyman or religious congregation, without regard to the part of the town in which the meeting-house was situated. To accommodate this preference distinct societies were allowed to be formed by any number of persons who chose to associate for the purpose of supporting religious worship. Again, the forms of religious faith began to multiply, and Baptists, Methodists, Presbyterians, Episcopalians, and

other sects claimed the privilege of supporting worship according to their own views. These sects likewise organized themselves into separate societies. Such has been the practice from early times. These societies possess all the powers of a territorial parish and are subject to the same laws, being corporate bodies, and acting with perfect freedom in the regulation of their religious affairs.

The contract between a clergyman and a parish is considered for life, unless it is otherwise expressed in the terms of the contract. Hence no parish can dismiss a clergyman without his consent, except for improper conduct. The common mode of dismissal is for each party to choose persons to form a council, who examine and judge the case. If the council decide that there is just cause for a separation, the parish are no longer bound to pay the clergyman's salary, and of course the contract is dissolved. But disability on account of personal weakness, ill-health, or age, is not a sufficient cause for dismissing a clergyman.

The principle of the laws concerning religion, as they now stand, is that every person in the State who pays taxes shall contribute to the support of some form of religious worship, but the particular form of worship, and manner of supporting it, are left to his own option. For this purpose the parishes, or societies, may tax themselves in the same way as a town. Any person may also leave one parish, or society, and join another by giving due notice. But whoever resides in a town is subject to pay a tax to the oldest parish, unless he gives notice in legal form that he belongs to some other. But it is not necessary that the society to which he belongs, or professes to belong, should be in the town in which he lives. It may be in any part of the State. Should he belong to a religious society in which it costs nothing, or very little, to support public worship, as is the case with the Methodists, whose clergymen are traveling preachers, then he is not taxed at all. It is common for some societies to support their preachers by voluntary contributions, and then there is no tax.

Enclosures.

When the townships were originally surveyed and laid out they consisted either wholly or mostly of wild and uncultivated lands. For the convenience of the first settlers it was customary to reserve a tract near the center of the town, which was held in common by the inhabitants. Within this tract it became the practice to let cattle, horses, and other domestic animals run at large, and as every inhabitant owned a share, by virtue of his residence in the town, it was open to the use of all. Hence it was necessary that the cultivated fields should be well enclosed whenever they bordered on the highways, to prevent the encroachments of these animals. Every man had a right, also, to let his cattle run freely on his own lands, and hence the necessity of good fences between himself and his neighbors. The farms were small and this increased the extent of boundaries between the lands of different persons. From these circumstances it will be seen that laws were required to regulate the mode of enclosing fields, and to fix penalties for the depredations made by cattle.

For executing these laws the towns appoint officers, called fence-viewers, field-drivers, and hog-reeves. Their duties are important in preserving peace and harmony among neighbors. As the laws restricting cattle from running in the highways pertain exclusively to the interests of a single town without affecting those of the State at large, any town has the right to suspend the operation of these laws by a vote of the majority, for a term not exceeding one year.

Remarks.

Such are the general principles of the municipal or town governments of Massachusetts, and for the most part of all the New England States except that of supporting religion by law, which is now peculiar to Massachusetts, though it formerly pertained to some of the other States. The ruling

features are the system of election and the prevailing power of the majority to govern the whole. The laws of the State on municipal subjects have grown out of the early habits and previous usages of the towns, and by producing uniformity they now consolidate them into one political body, at the same time that they allow all the liberty requisite for local self-government. The laws are made by representatives sent from the towns. The representatives are accustomed to act constantly as political agents in managing town affairs, and from the habit of acting upon the same principles, though living in different parts of the State, they come together with similar views and are qualified to judge of the nature, utility and consequences of any laws designed to affect the whole. Hence the groundwork of the State government is in the towns, and each town is in some sort an epitome of the State. To abridge their liberties, or restrain their power of political action, would be to undermine and destroy the whole fabric.

It will be observed that the powers of the towns are mostly of an executive kind. They choose officers to effect certain purposes prescribed by the laws, both in regard to their internal concerns and the welfare of the State. They have a limited legislative power, enabling them to adopt municipal regulations which do not conflict with the laws of the State, but they have no judicial powers whatever, either for criminal or civil purposes. These powers are in the hands of judiciary officers appointed by the State. All breaches of the law must come before the courts thus organized, and a town itself as a corporate body is amenable to the same tribunal.

ANSWERS TO QUERIES PROPOSED BY M. DE TOCQUEVILLE.

1. "*Is there a permanent executive power in the towns, and by whom is this power exercised?*"

Every town has all the power requisite for executing the municipal laws of the State, and such other regulations as

the town itself may make when assembled in town meetings. This power is exercised by the selectmen and other officers chosen by the people for that purpose. Although the power is permanent in the towns, it can never exist more than one year in the hands of any particular officers, unless they are chosen anew. All the town elections are annual.

2. *"Can a town effect any enterprise without applying to a higher power? Can a town buy and sell, contract loans, and maintain actions in a court of justice?"*

As the towns are corporate bodies, they can hold property, buy and sell, contract loans, bring suits in the courts, and transact any other business common to corporations. All such affairs are decided in town meetings by a majority. If a specific object were to be effected, a purchase made, a loan contracted, or a suit prosecuted, the practice would be to call a town meeting, and the people would authorize the selectmen to manage the affair, or appoint separate commissioners for that specific object. The credit of a town is always good because the whole property of the inhabitants, or any part of it, may be seized for the payment of a debt which has been contracted in consequence of a vote in a town meeting. Towns may also be sued in the courts by other corporate bodies, or by individuals who dwell in the town or anywhere else. If a laborer or any other person has a demand against a town for services rendered according to a contract with the selectmen, he may sue the town and collect his demand in the courts. Every person's property in the town is held liable to be taken to satisfy such a demand.

It is a rule that the majority governs, but in imposing taxes there is a limit to this power. If an unequal or unjust tax is laid by a town meeting, or one for effecting an object that does not promote a general benefit, any individual aggrieved has a remedy in the courts of law. He must pay the tax in compliance with the vote of the town, but he may then prosecute the town for the amount of his tax and bring

the matter before a court of justice. This tribunal will decide whether the tax was legal, and if not, the town is obliged to pay back the amount. This case rarely occurs, because it can seldom happen that a majority of the people, living scattered as they do throughout the town, will vote to tax themselves for an object that is not for the public advantage.

3. "Can two or more towns unite in a common object? Can they establish relations between each other?"

Towns can establish no relations between each other without the consent of the Legislature. For instance, two towns cannot assemble and act together in one town meeting. Such a thing probably never happened, and if it should the acts of the meeting would be illegal and void. They may agree to unite in accomplishing any object common to the interests of both, but this must be done by authority conferred on the selectmen or other officials by each town separately.

4. "Can the towns present petitions to the Legislature collectively?"

Every town, every corporation, every society and every individual in the State has a right to present petitions to the Legislature. Consequently, two or more towns may petition for the same thing, but the common mode would be for them to present separate petitions.

5. "To what extent does the Legislature interfere with the internal administration of the towns?"

The Legislature has nothing to do with the municipal affairs of the towns, except as occasion may require to make and amend the laws which regulate generally the town governments. These laws, as heretofore observed, apply equally to every town, and the representatives themselves, who constitute the Legislature, and by whom the laws are

made, are inhabitants of the respective towns and chosen annually by the people.

6. "What is the precise meaning of the term corporation?"

A corporation is a body politic, or an assembly of persons authorized to act as an individual, to the extent of the powers granted them by law. There are two kinds of corporations, namely, such as are formed by acts of the Legislature with a specific name and for some definite purpose, and such as possess corporate powers from the nature of the privileges allowed them by the laws. Of the first kind are colleges, insurance offices, banks, hospitals, manufacturing companies, and the like. Towns, parishes and school districts are of the second kind; that is, no town, parish, or school district has ever been incorporated by an express act of the Legislature, but the powers granted them by law are such as could not be exercised except by a corporate body. Hence they are in fact corporations, and are called such, or rather in technical phrase, *quasi* corporations. The corporation of a city is of the first kind and constituted by an act of the Legislature. Boston is the only city in the commonwealth. Toutes les autres villes sont *towns*.

7. "What is the general system of constructing roads and keeping them in repair?"

The Legislature has the power to make roads in any part of the State. But this power is never exercised directly by the Legislature. It is the business of the counties and towns to make and repair the roads. When a new road is to be laid out, which passes through more than one town, it must be done by the county commissioners. The value of the land through which any such road passes, is also determined by the commissioners, and the amount is paid out of the county treasury to the owners of the land, in proportion to the claim of each. The first expense of making

a new road of this sort is paid by the county, but it is afterwards kept in repair by the towns. The tax for making the road is apportioned to each town in the county and collected in the usual way. A town may lay out roads anywhere within its own territory, but has no right to run them into another town without the consent of that town.

Hence there are two kinds of roads, called county roads, and town roads, but the duty and expense of keeping them in repair devolve wholly on the towns. The method is for the town to assess a highway tax on the inhabitants and appoint surveyors of highways. The selectmen may divide the town into districts, or prescribe the limits within which each surveyor is to act. It is the duty of a surveyor to see that all the roads within his district are repaired at certain times, and also whenever they are out of order. For this purpose he can call on each inhabitant of his district to pay the amount of his tax, either in labor or money. The common practice is for the people to work on the roads themselves, their labor being estimated at a fixed price. But this is optional, and they may pay their tax in money if they prefer it, and with this the surveyor will employ other laborers. All the inhabitants of the district are interested in keeping the roads in repair, because these roads are mainly for their own use.

Turnpike roads are made by incorporated companies, who petition the Legislature for the privilege of making a road between one place and another, and by a specific route. The road is laid out by the company, and the lands through which it passes are valued by the county commissioners and paid for by the company. The road is then made and kept in repair at the expense of the company, and a toll is allowed for their remuneration. The property of the road then becomes a stock, which is divided into shares that may be bought and sold like the property of any other incorporated body. The toll is the income of these shares.

Canals and railroads are constructed upon the same principles. They are never made by the Legislature but by

voluntary companies. The Legislature may buy shares, but when this is done it is generally with the view of encouraging some public work. There is no compulsion on the towns to aid in such enterprises. But it is a principle of the Constitution, that every person whose property is taken for a public use shall receive a full equivalent. Hence, whenever a new road or canal passes through any person's land, he is to be paid for all the damage he thus sustains.

8. "*From what class are the teachers of schools generally chosen? Are there any clergymen among them?*"

This depends on the kind of school, whether primary or of a higher order. In the large towns there is commonly one or more schools kept through the year. The teachers of such schools have usually been educated at some college or academy and make teaching the occupation of their lives. But the subordinate schools, which are kept only for a part of the year, are mostly taught by young men who are students in a college or academy and who are allowed to leave these institutions for two or three months. In the summer the same schools are kept by young women who have been suitably educated. At this season the small children only attend the schools, as the labor of the boys and larger pupils is wanted on the farms and in the families. There is, also, a well-informed class of men in the community who are capable of teaching the primary schools in the winter, and who are engaged in farming or other occupations the rest of the year. Clergymen sometimes take private pupils into their own families, but they rarely engage in public instruction when connected with a parish. A large portion of the ablest men in New England have been teachers of town schools while obtaining their collegiate education.

9. "*What part does religion occupy in the instruction at the schools?*"

The discretion of the teacher, or the directions of the school committees, are the only guides on this subject.

These again will be modified by the religious tenets of the people; and as these vary on account of the variety of sects, no system is followed. In many schools the New Testament is used as a class-book, but religious dogmas, or what may be called sectarian tenets, are rarely taught in schools. Formerly this was more the practice than at present, because the religious sentiments of the people were more alike.

10. *"Are the effects of education uniformly good? Does it not happen that a man, who obtains an education superior to his social condition, becomes an inquiet and turbulent citizen?"*

No such evil has ever been experienced as a consequence of education. On the contrary, our ablest men, best statesmen, and truest patriots have been those who have arisen from the humble ranks of society and made their way by the force of their talents, enlightened and guided by a good education. In a republic it will ever be found that ignorance is the germ of factions. Security rests in the intelligence of the mass, and where this intelligence is widely diffused it serves as a check upon the improper designs and unlicensed ambition of the few, who may be inclined to take advantage of their superior talents or attainments. Nothing can be done without moving the people, and where they understand the nature of their political rights, and the manner of exercising them for their own benefit, it is a difficult matter to enlist them in a cause of disorganization which they see must redound to their injury. Everybody can read the newspapers, and almost everybody does read them. All kinds of political topics are there discussed, and the people become acquainted with the principles of their institutions, the proceedings of their Legislatures and the entire machinery of the government. They watch strictly the conduct of every public officer, and hold in their hands the controlling power of elections. The surest road to success for any aspiring man is to convince the people by his conduct, that

he respects their rights and will maintain them, that he desires social order, and is true to the principles upon which it is founded. In this state of things it would be weak policy in a man of high education, who aims to advance himself in a political career, to seek by intrigue and violence what he can attain much more easily by frankness, honesty, and patriotism.

11. "*Is the whole town often consulted? What is the character of these assemblies? How can delicate affairs be transacted, and at the same time any uniform system of administration be followed? Do not these meetings become centres of intrigues, and are they not, like all other great assemblies, often influenced more by the passions than by argument?*"

The practice of town meetings has heretofore been explained. The people never assemble, except according to the laws and for a specific purpose. The object of the meeting is made known beforehand by a public notification. There are no delicate matters to transact. Everything is public, and every person is interested in what is to be done, and in the end the majority decides and the minority must submit. The laws, usages, and habits are the guides. If the majority acts against law, there is a remedy for the minority in the courts of justice. The common affairs of the town are seldom of a kind to excite the passions. It will undoubtedly sometimes happen, when some new enterprise is to be undertaken, that different interests will clash, and there will be warmth of debates in the meetings, and efforts of a party to carry particular points, but all must at last conform to the will of the majority. There has never been an instance in which the peace of the State was disturbed by the wrangling of towns. Besides any number of persons can petition the Legislature for redress when the case is not properly met by existing laws. The most valuable feature of the system is, that the rules of town governments are precisely the same throughout the State, so that the laws are

uniform, easily understood, and easily explained. This likewise preserves a uniformity in the habits, manners, and political views of the people. As before observed, the laws in regard to towns have not been made for producing new organizations, but rather to define and confirm ancient and long established customs.

12. "Is it not found that the poor have a secret envy of the rich, so that the former class, always the majority, will sometimes oppress the latter, and exclude them in elections from public affairs?"

Human nature is the same here as in other countries, and of course similar passions will exist, and produce similar effects to a certain extent. But these will everywhere be modified by the condition of society. In New England the number of the class that may be called rich is exceedingly small, except in the cities and large commercial towns. Almost every inhabitant owns the farm in fee simple upon which he lives. The system of tenantry and rents hardly exists, and the law of entails is unknown. Hence there can be no rich families, and nearly all the richest men in the country have arisen from small beginnings and made their own fortunes. That is, the rich have once been poor, and although wealth gives them influence, it seldom excites jealousy. Besides, wealth procures no political privileges and no exemption from the duties of a citizen. Every man, however large his property, must contribute his due share to the support of government. The rich man's vote is the same as the poor man's. The man of small property, whose talents and attainments are of a superior order, will commonly be preferred in elections to the rich man, yet the mere circumstances of wealth, if all other qualifications are equal, will operate but little in excluding a man from an office. Character, ability and fidelity in discharging the duties of an office are the principal recommendations, and where these are found combined with wealth they will have their weight. On the other hand, the voters in all the elections are so

numerous that it would not be possible for any man, however rich, to decide an election by means of his wealth.

13. "What are Counties and Districts?"

A county is a territory which embraces a certain number of towns situated in contact with each other. The inhabitants never assemble in meetings as in the towns. The functions of county officers relate to such objects as pertain to all the towns, but such as are not discharged by any town officers. Each county contains a court house, jail, sheriff, coroners, probate of wills, recorder of wills, and county commissioners. All these officers are appointed by the Governor and Council. Justices of the peace are also county officers, and appointed in the same way. In whatever town any of these officers may reside, their authority extends over the whole county. Their duties are defined by law, and depend in no manner on the people. The higher courts of the commonwealth are held at stated times in the counties.

A District is a nominal division of territory merely for electing representatives to Congress and the State Legislature, and varies from time to time as the population increases, and as the legislature may decide. A town is a district for choosing Representatives to the Legislature; a county is a district for Senators; and, for members of Congress, the State is divided into as many districts as there are members sent from the State. The principle of this system is, that each part of the State shall be represented as nearly as possible in the ratio of the number of inhabitants in that part, and also that the representatives shall be taken from among the people by whom they are chosen.

III.

Continued Correspondence.

When Tocqueville's "Démocratie en Amèrique" was published, Mr. Sparks endeavored to secure its translation and reproduction in this country. Correspondence upon this subject is preserved among the Sparks papers now in

the Library of Harvard University. On the 6th of June, 1837, after a letter from Tocqueville, Mr. Sparks wrote: "I am vexed and mortified that an edition of your "*Démocratie*" has not yet been published in America. The causes might be explained, but I can only hint at them in this letter. The work came out just at the time of the unfortunate "Indemnity Controversy," and then General Jackson's war spirit began to stir up in the people a hostile feeling towards France. Hence little interest was felt for a book by a French writer. Again, our newspapers have been filled with extracts from the English reviews, containing the parts of your work most objectionable to American readers; that is, your remarks on the defects of Democratic institutions. But you may be assured that all the intelligent persons among us who have read your treatise have applauded its ability and candor. I have pressed several publishing houses to republish the English translation. Three months ago I had nearly completed an arrangement with a house in Boston, and almost consented to write a preface and notes suited to American readers, but at that moment an advertisement appeared in the newspapers by a publisher in New York, announcing that he should immediately put it to press. I have heard nothing about it since, and I presume the terrible commercial disasters, which have prostrated all enterprise, have suspended, if not defeated, the execution of his design.

"As to your new work, I will enquire of the publishers, and ascertain what can be done. From my knowledge of their habits of doing business, however, I cannot hope that they will undertake it on such terms as to afford you any pecuniary compensation. The reason is that a foreign author cannot secure a copyright in the United States, and the publishers pay no respect to each other, but republish cheaper editions, and thus mar the sale and diminish the profits of the first edition. In this state of things, no publisher will venture to pay money for a foreign book, the success of which can only be proved by the trial.

"At all events, I wish you to send me the proofs of your work as fast as they are printed, and I will do the best that I can. Should it be printed here I will take care that it shall be put into the hands of a good translator, and that the book shall be brought before the public in a respectable form. The manuscript can be sent for your revision. Let me know whether you give me full discretion to act in the matter. You will hear from me again soon. Pray inform me whether the English translation of your '*Démocratie*' is a good one, and was revised by yourself. Direct to me at Cambridge, Massachusetts, where I am at present residing."

TOCQUEVILLE TO SPARKS.

PARIS, ce 11 Septembre, 1835.

Mon cher Monsieur Sparks—En revenant à Paris, il y a quelques jours, j'ai reçu une très aimable lettre de vous et un livre fort intéressant que vous aviez bien voulu y joindre. Vous devez trouver fort étrange que je n'aie pas répondu plus tôt à la première et remercié du second. Vous me pardonnerez, j'espère, mon silence en apprenant que je viens de passer cinq mois en Angleterre. Le paquet que vous m'avez adressé est parvenu pendant ce tems à ma demeure à Paris et ne m'a été remis qu'au retour.

Je suis très curieux de savoir ce que vous avez pensé du livre que j'ai publié sur la Démocratie Américaine. Les critiques me sont toujours très précieuses, mais elles ont un prix particulier à mes yeux lorsque'elles viennent d' un homme aussi éclairé que vous et que j'aime à compter au nombre de mes amis. Je vous serais donc infiniment obligé d'examiner avec soin cet ouvrage, de relever les erreurs qu'il peut contenir et me les signaler sans pitié. Ce serait me rendre un service d'autant plus grand que je vais bientôt procéder à une revision générale. Le livre a déjà eu deux éditions. On en prepare une troisième et pour celle-ci je serais très heureux de pouvoir profiter de votre expérience.

Je n'ai pas entendu dire que cet ouvrage ait été traduit ni même revu en Amérique. Il a été l'un et l'autre en Angleterre.

Pendant mon séjour à Londres, j'ai été reçu avec beaucoup de bienveillance dans la maison de Lord Holland. Causant avec lui, il m'est arrivé de citer votre nom et Lord Holland, m'interrompant, m'a fait un grand éloge de vous. Il prétend vous avoir fourni sur la Révolution d'Amérique des documens curieux que vous avez mis en lumière. C'est avec un très grand plaisir, je vous assure, que je lui ai entendu dire de vous tout le bien que j'en pense.

J'ai rencontré à Dublin un de nos amis de Boston Mr. Ticknor. Nous avons encore beaucoup parlé de vous et de tous ceux qui m'ont témoignè tant de bienveillance dans votre pays. Je ne leur ai fait qu'un reproche, c'est d'habiter si loin de nous.

Adieu, Monsieur Sparks, recevez, je vous prie, l'assurance de ma considération la plus distinguée.

P. S.—Je vais vous faire passer un exemplaire de mon ouvrage. J'espère que vous voudrez bien le recevoir comme un nouveau gage de mon amitié.

TOCQUEVILLE TO SPARKS.

PARIS, 14 January, 1837.

Mon cher Monsieur Sparks.—Un des mes amis s'occupe en ce moment à traduire la vie de Gouverneur Morris et il s'est adressé à moi pour vous faire parvenir la prière suivante: on trouve dans votre ouvrage sept à huit lettres de français célèbres tels que Lafayette, Mme. de Stael . . . . que vous avez dû traduire en anglais. Vous sentez que cette correspondance serait de nature à intéresser particulièrement notre public et qu'il serait bien important de pouvoir lui donner non la traduction de votre traduction, mais les textes originaux. Si donc vous pouviez, sans vous gêner, faire copier les lettres en question ou tout au moins les principales d'entre elles, vous rendriez un grand service à mon ami et vous me feriez un véritable plaisir.

Je passe maintenant, si vous le voulez bien, à une autre affaire: vous savez peut-être que dans ce moment je travaille à compléter mon grand ouvrage sur l'Amérique en montrant l'influence de l'égalite des conditions sur les moeurs. Cette seconde partie du livre formera deux volumes comme la première et sera livrée à l'impression vers le mois de décembre prochain. Pensez-vous qu'un libraire Américain pourrait trouver son intérêt à faire faire la traduction de ces deux volumes et que, dans ce cas, il ne lui importerait pas de recevoir les *epreuves* à mesure qu'elles auraient été corrigées par moi? De cette manière sa traduction paraîtrait en Amérique presq'aussitôt que l'original en Europe et il n'y aurait pas de concurrence à craindre. J'ai pensé, mon cher Monsieur Sparks, que vous ne refuseriez pas de consulter quelques libraries des États-Unis à ce sujet et que vous auriez l'obligeance de me faire connaître leurs conditions, s'ils avaient à m'en proposer.

Vous pardonñerez, j'espère, la double demande que contient cette lettre, à un homme qui ne peut s'empêcher de compter un peu sur votre amitié, parce qu'il vous en conserve lui-même une très véritable.

Recevez, je vous prie, mon cher Monsieur Sparks, l'assurance de ma considération la plus distinguée.

Mr. Sparks caused a translation to be made of Tocqueville's excellent report on the emancipation of slaves[1] in the French Islands, and it was published in the *North American Review, circa* July, 1840. Sparks thus rendered considerable practical service to Tocqueville in promoting his interests in America; and, on the other hand, Tocqueville aided Sparks in procuring original French materials for American history. Tocqueville also arranged for a French transtion of Sparks' edition of the "Life and Correspondence

[1] De Tocqueville's studies of the abolition movement in Europe and in the Indies are too little known in America. See his Études Économiques et Littéraires: "De l'émancipation des esclaves." See also his Ancien Régime, on the "Date de l'abolition du servage en Allemagne."

of Gouverneur Morris." In one of his letters upon this work to Tocqueville, June 6, 1837, Sparks expresses great regret that certain extracts from the diary of Morris had given offense, according to James Fenimore Cooper's report to the family of Lafayette: "It gives me pain to know that anything has passed through my hands to the public which should wound the sensibility of any person interested in the fair fame of that distinguished friend to America and the human race. Whatever Europeans may think, you are well aware that every American cherishes and ever will cherish an ardent affection for the name and the character of Lafayette. I hope nothing will appear in the work (the French edition) therefore, which shall tend in the least degree to his disparagement. It will be allowable for the translator to make omissions where he chooses." As is well known, Mr. Sparks had his own views upon the subject of editorial duty to the living as well as to the dead. It is unnecessary to apologize for him or for his methods. Posterity will do a just man justice.

Sparks on Tocqueville.

Mr. Sparks himself, while very friendly to Tocqueville, did not hesitate to criticise his somewhat doctrinaire views of American politics. Writing, February 1, 1841, to Major Poussin, of Paris, author of a book on the government and institutions of the United States, Mr. Sparks said: "Your criticisms on M. de Tocqueville's work also accord for the most part with my own sentiments. Notwithstanding the great ability with which his book is written, the extent of his intelligence, and his profound discussions of many important topics, I am persuaded that his theories, particularly when applied to the United States, sometimes lead him astray.

"For instance, in what he says of the tyranny of the majority, I think he is entirely mistaken. His ideas are not verified by experience. The tyranny of the majority, if exercised at all, must be in the making of laws; and any evil

arising from this source operates in precisely the same manner on the majority itself as on the minority. Besides, if the majority passes an oppressive law, or a law which the people generally disapprove, this majority will certainly be changed at the next election, and be composed of different elements. M. de Tocqueville's theory can only be true where the majority is an unchangeable body and where it acts exclusively on the minority, as distinct from itself,—a state of things which can never occur where the elections are frequent and every man has a voice in choosing the legislators."

In a letter to Professor William Smyth, of Cambridge, England, October 13, 1841, Mr. Sparks criticises the former's lectures on "America," for this reason: "I think too much confidence is placed in M. de Tocqueville's ideas of the 'tyranny of the majority.' On this subject his imagination leads him far astray. In practice we perceive no such consequences as he supposes. If the majority were large and always consisted of the same individuals, such a thing might be possible; but with us, as in all free governments, parties are nearly equal, and the elections are so frequent that a man who is in the majority at one time is likely to find himself in the minority a few months afterwards. What inducement has a majority thus constituted to be oppressive? Moreover, M. de Tocqueville often confounds the majority with public opinion, which has the same tendency, or nearly so, in all civilized countries, whatever may be the form of government. Yet his work has great merit, and on most points is remarkably accurate where facts only are concerned. He is apt to theorize."

Sparks to Tocqueville.

The following letter to Alexis de Tocqueville was written by Mr. Sparks from Cambridge, June 13, 1853, when he was president of Harvard College, and relates to the progress and certain dangerous tendencies of democracy in America:

"I have delayed too long to answer the kind letter which accompanied your official communication acknowledging the receipt of the diploma from our university. The sentiments expressed by you on the occasion were gratifying to the corporation, as showing an interest in the institution and good wishes for its continued prosperity.

"Through the usual channels of intelligence, you are so well informed of the general state of affairs in this country, that any remarks from me with the view of enlarging your knowledge or enlightening your opinions, might seem superfluous. Your own observation and experience have made you familiar with the principles upon which our political system is founded and with many of the details of its operation. Yet there have been changes in twenty years; and indeed it would not be wise to predict with any degree of precision what developments time may bring to pass.

"The material prosperity of the country goes onward with an amazing acceleration. The rapid growth of cities, towns, and villages, the expansion of commerce, the increasing products of agriculture, the multiplication of railroads forming a network from the eastern extremity of Maine to the Mississippi, and of steamboats floating on all the navigable rivers and lakes, the vast increase of manufactures of every description—all these present a scene of rapid change, activity, enterprise and progress which certainly has no parallel in the history of civilization. Nor is mental culture neglected. The school system of New England, modified as local circumstances may require, is established in nearly all the free States, patronized by the governments and sustained by the people. Higher seminaries and colleges are well supported. But it must doubtless be a long time, in the midst of so many temptations to active and political life, before there will be a large class who will seek eminence by triumphs in literature or purely intellectual achievements.

"Your apprehensions of the tendencies of the popular mind are not without foundation. The history of the last few years, the acquisitions of Texas and California, prove

that a spirit of adventure and conquest excites the aspirations and moves the will of the people. Perhaps it is inherent in the democratic element. The clamor for acquiring Cuba springs from the same spirit; and a slight cause would carry the arms of the United States again into Mexico. Where will this end and how are such vast accessions and discordant materials to be held together in a confederated republic? But the slave question presents the most formidable problem. How is this to be solved? No political geometer has yet devised a method. You know the extreme difficulties attending this question, as connected both with the form and extent of slavery as it exists in this country. Its political aspects are dark and ominous.

"There is not the slightest reason to fear that the United States will meddle with the agitations of Europe. The experiment tried by Kossuth proved a total failure. The people were ready enough to *sympathize*, but not a voice was raised for action, unless from a few German emigrants and restless agitators.

"When you again see Mr. Beaumont, please to present to him my kind remembrances.

"Accept, my dear sir, the assurance of the sincere regards and friendship of

"Yours most truly, JARED SPARKS."

The final letter to Tocqueville from Mr. Sparks was dated at Cambridge, December 28, 1858, and relates to De Tocqueville's greatest work, "L'Ancien Régime," and also to the problem of American slavery: "On my return from Europe, I received from Mr. Ticknor the letter and the volume which you sent to me by him from Paris. For these tokens of your friendship and kindness I beg you will accept my best thanks. I have perused your work with very great satisfaction not only as containing a rich fund of historical facts, but as presenting a clear and vivid picture of the internal state of France during the important period which it embraces. I have nowhere seen the causes and gradual

progress of the revolution so completely developed. The work throughout bears evidence of great labor and research in collecting the materials of which it is formed, and it must ever be regarded as a most valuable acquisition to the historical literature of France. In my library it will stand by the side of the "Démocratie en Amérique," and together they will serve as a perpetual and agreeable memorial of their author.

"What can I say to you concerning the state of public affairs in this country? No man understands better than yourself the principles and practical operations of our political system. No essential change has taken place since you were in America. There is a constant conflict of parties, but so it will always be in a free government. The rapid extension of settlements at the West and the addition of new States in that quarter, produce gradual changes in our internal affairs, yet no material inconveniences have been found to result from these acquisitions, although new States are now forming on the Pacific Ocean nearly four thousand miles from the Capital at Washington.

"Slavery is the absorbing topic which occupies all minds. It is indeed most formidable, whether regarded as bearing on the present or future prospects of the country. Emancipation is the hope and the ardent desire of every friend of humanity, but how or when this is to be effected no one can venture to predict. And even if all the slaves were now emancipated, what could be done with three millions of people, differing in race, color, and condition from those around them constituting the mass of the nation? The tendency of the evil, as it now exists, is to produce a geographical division in the opinions and interests of different States. Such a division must always be unfavorable to the Union. As yet, however, there are no serious apprehensions of difficulty from this source. The future must be left to the guidance of a wise and beneficent Providence."

SPARKS TO COUNT DE MENOU.

Writing to the Count de Menou of Paris, May 23, 1859, after the death of De Tocqueville, Mr. Sparks said: "Your letter of May 6 has just come to hand. I have also received your favor of April 21, enclosing a copy of your very kind note to M. Guizot and his answer, and also a copy of the letter concerning our departed friend, M. de Tocqueville. For all these I beg you will accept my grateful acknowledgments and cordial thanks.

"The death of M. de Tocqueville has affected me very deeply. I knew him intimately during his travels in this country, and a friendly intercourse has existed between us ever since that time. He was not only an able and profound writer, but an estimable man. His death will be lamented by his friends everywhere.

"I duly estimate, my dear Count, the lively interest you have taken in regard to the membership of the Academy. Such an event would unquestionably be most gratifying to me. As the suggestion first came from yourself, it is not surprising, perhaps, that you should wish to see it carried into effect. But I fear you are taking much more trouble in the business than the occasion will justify, and I trust you will not allow yourself to have the least uneasiness on my account if your efforts should not be successful. I cannot doubt M. Guizot's kind intentions and friendly aid, yet other candidates will probably be brought forward, and the election of a member to fill the vacancy may depend on contingencies which cannot now be anticipated or foreseen. I shall not, however, feel the less grateful to you and M. Guizot for your generous dispositions in my behalf. I have not mentioned the subject to any person.

"I think it not advisable to make any further application at present for public documents. My former researches in the offices under M. Guizot's auspices, supplied me with a large number that are valuable; and although other important papers might be found, yet the history may be made

tolerably complete with such as I already have in my possession. Therefore, considering the kind of regulations now adopted in the archives, I should deem it inexpedient to renew application at this time.

"A copy of M. Gerard's correspondence while he was minister in the United States, during the years 1778 and 1779, would doubtleess contribute valuable historical materials. You have seen this correspondence among the papers of the French embassy at Washington.

"I will make further inquiry about the original letter from D'Aulnay, which you mention. I have very little hope of procuring it, because it is among the State papers, and it is probable that none of the officers who have the charge of those papers will feel authorized to allow it to be taken away.

"I shall be very glad to receive a copy of your family memoir when printed. I have sent to you a small parcel containing two or three pamphlets. It will be conveyed to you by the Rev. Dr. Frothingham, of Boston, who will sail shortly with his family from New York for Havre, on his way to Paris. . . . . "

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OF

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